

Message Text

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INFO AMEMBASSY ABU DHABI
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AMCONSUL DHAHRAN
AMCONSUL JERUSALEM
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C O N F I D E N T I A L SECTION 1 OF 4 BAGHDAD 1715

E.O. 11652: GDS
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TAGS: ETRD, XF, IZ
SUBJECT: ARAB BOYCOTT: TRADE IMPACT OF ANTI-BOYCOTT LEGISLATION

REF: 6(A) BAGHDAD A-29, (B) BAGHDAD 933, (C) BAGHDAD 960,
(D) BAGHDAD 1130, (E) XAGHDAD 1254, (F) BAGHDAD 1413,
(G) BAGHDAD 1442, (H) BAGHDAD 1494, (I) BAGHDAD 1538
(J) STATE 194719 (ALL NOTAL)

1. SUMMARY: IRAQ HAS SHOWS VIRTUALLY NO WILLINGNESS TO ACCOMMODATE TO NEW EAA REGULATIONS, WITH THE RESULTANT LOSS OF HUNDREDS OF MILLIONS OF DOLLARS TO U.S. FIRMS IN ACTUAL OR POTENTIAL BUSINESS. WE BELIEVE SOME EXEMPTIONS TO IRAQI BOYCOTT LAWS WILL CONTINUE TO BE GRANTED TO A FEW U.S. FIRMS, BUT ONLY ON AN INCREASINGLY EXCEPTIONAL BASIS FOR PRODUCTS OR TECHNOLOGY NOT AVAILABLE FROM OTHER SOURCES. THE GOI HAS PUBLICLY TAKEN A CONFRONTATIONAL STANCE ON THIS ISSUE AND EVEN THE LIMITED WILLINGNESS SHOWN IN THE PAST TO WORK OUT ACCOMMODATION ON BOYCOTT MATTERS HAS LARGELY DISAPPEARED. WITH ITS CONSIDERABLE OIL RESERVES AND MULTI-BILLION DOLLAR DEVELOPMENT PLANS, IRAQ IS A MAJOR MARKET FOR WESTERN PRODUCTS AND TECHNOLOGY. HOWEVER, IT IS LIKELY THE U.S. SHARE WILL CONTINUE TO DECLINE, PRINCIPALLY

BECAUSE OF BOYCOTT PROBLEMS. END SUMMARY

2. FOLLOWING RESPONSES ARE KEYED TO QUESTIONS IN PARA 4 REF J:

A. SPECIFIC PROHIBITIONS HAVING GREATEST IMPACT ON TRADE: BOYCOTT PROVISIONS PERMEATE FOREIGN PROCUREMENT PRACTICES. THREE PROVISIONS OF IRAQI CONFIDENTIAL

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LAW ESPECIALLY INHIBIT THE ENTRY OF U.S. FIRMS AND PRODUCTS INTO THIS LARGE AND RAPIDLY-GROWING MARKET.

(1) REQUESTS FOR PROVISION OF INFORMATION ABOUT THE NATURE OF A FIRM'S RELATIONSHIP WITH ISRAEL; (2) REQUESTS FOR PROHIBITED SHIPPING CERTIFICATIONS IN LETTERS OF CREDIT BY IRAQI BANKS, ALL OF WHICH ARE STATE-CONTROLLED; (3) REQUESTS FOR NEGATIVE CERTIFICATES OF ORIGIN.

(1) THE PROHIBITION OF SECTION 369.2(D) (BUSINESS RELATIONSHIPS WITH BOYCOTTED COUNTRIES OR BLACKLISTED PERSONS) IS THE MAJOR BARRIER FOR NEW-TO-MARKET FIRMS AND PRODUCTS. IRAQI TENDER DOCUMENTS USUALLY REQUEST A SEVEN OR EIGHT POINT BOYCOTT STATEMENT. IN THE PAST, SOME FIRMS WERE ABLE TO NEGOTIATE ALTERNATIVE WORDING BUT SINCE PASSAGE OF THE EAA, STATE PURCHASING AND CONTRACTING BODIES HAVE BEEN INCREASINGLY UNWILLING TO ACCEPT THIS APPROACH. OFFICIALS TELL US THAT FIRMS WITH BRANCH OFFICES AND/OR REGISTERED AGENTS WILL NOT HAVE TO FURNISH SUCH STATEMENTS SINCE IT HAS ALREADY BEEN DONE IN ORDER TO COMPLY WITH REGISTRATION

LAWS. NEW-TO-MARKET FIRMS, HOWEVER, MAY NOT COMPLY AND THEREFORE MAY NOT APPOINT LEGAL AGENTS OR OPEN BRANCH OFFICES UNLESS THEY HAVE ALREADY BEEN AWARDED A CONTRACT, POSING A CLASSIC CHICKEN-OR-EGG DILEMMA.

(2) THE PROHIBITION OF SECTION 369.2 (F) (PROCESSING LETTERS OF CREDIT REQUIRING CERTIFICATION RE BLACKLISTED VESSELS) ALSO POSES A MAJOR PROBLEM. IN THE PAST, SUCH CLAUSES HAVE USUALLY BEEN DELETED AFTER THE FOREIGN FIRM OR BANK RECEIVING THE L/C APPLIED TO THE GOI CONTRACTING AGENCY FOR REMOVAL, BUT RECENT INDICATIONS ARE THAT THIS FLEXIBILITY IS DIMINISHING. L/C PROBLEMS HAVE COMPELLED MIBIL
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TO SHIP SPECILIZED LUBRICANTS ON A PAY-AFTER-DELIVERY BASIS, AN OPTION NOT OPEN TO MOST FIRMS UNABLE OR UNWILLING TO ASSUME THE CREDIT RISK.

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(3) THE THIRD AND POTENTIALLY MOST DIFFICULT
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OBSTACLE IS THE NEARLY UNIVERSAL REQUIREMENT FOR
NEGATIVE CERTIFICATES OF ORIGIN. THE GOI HAD BEEN
SOMEWHAT FLEXIBLE, ACCEPTING, FOR EXAMPLE, POSITIVE
CERTIFICATES ISSUED FOR SHIPMENTS VIA THIRD COUNTRIES.
NOW, IRAQI EMBASSIES AND CONSULATES IN EUROPE HAVE
BEEN INSTRUCTED TO REJECT POSITIVE CERTIFICATES ISSUED
BY EUROPEAN SUPPLIERS OF U.S. - ORIGIN GOODS.

B. IRAQ VIEWS THE EAA AS A HOSTILE ACT AIMED
AT WEAKENING THE EFFECTIVENESS OF THE BOYCOTT AND IS,
SO FAR, UNWILLING TO TAKE THE STEPS NEEDED TO
FACILITATE TRADE. ON THE CONTRARY, IT ACTIVELY SEEKS
TO PENALIZE THE U.S. BY DENYING AMERICAN FIRMS AND
THEIR OVERSEAS AFFILIATES ACCESS TO THIS MARKET
EXCEPT WHERE THE U.S. IS THE ONLY SOURCE OF SUPPLY
OR SPECIFIC ADVANCED TECHNOLOGY IS REQUIRED
FOR HIGH-PRIORITY NATIONAL DEVELOPMENTS PROJECTS.
OFFICIALS HAVE TOLD USINT AND OTHERS THAT IRAQ IS
NOT INTERESTED IN INCREASED TRADE WITH THE U.S.
AT PRESENT. THIS POLICY IS DETERMINED AT THE HIGHEST
POLITICAL LEVEL, AND REFLECTS A PERCEPTION OF THE
U.S. AS A HOSTILE POWER WILLING TO EMPLOY ITS TRADE
POLICY ON BEHALF OF AN ENEMY STATE.

C. TO OUR KNOWLEDGE, UNILATERAL SELECTION
IS NOT WIDELY USED IN DEALING WITH U. S. FIRMS. IN
THOSE CASES WHERE THE GOI UNILATERALLY CHOOSES
SPECIFIC U.S. GOODS, BOYCOTT REQUIREMENTS ARE
NORMALLY WAIVED. THIS PROCEDURE IS USED MOST OFTEN
IN THE PETROLEUM AND AVIATION SECTORS.

D. REACTION TO ANTI-BOYCOTT LAWS HAS LARGELY

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RULED OUT IRAQ FOR SMALL AND MEDIUM-SIZED FIRMS THAT ARE NEW-TO-MARKET OR NEW-TO-EXPORTING, ESPECIALLY IF THEIR PRODUCTS FACE COMPETITION FROM EUROPE AND JAPAN. IRAQI FLEXIBILITY ON BOYCOTT ISSUES IS ONLY DEMONSTRATED IN MAJOR PROJECTS REQUIRING ADVANCED DESIGN OR TECHNOLOGY, FIELDS WHICH TEND TO BE DOMINATED BY LARGER U.S. COMPANIES.

E. NO REPLY YET FROM U.S. FIRMS SINCE THE NEW REPORTING REGULATIONS WERE ONLY RECEIVED ON AUGUST 7 AND MAILED ON AUGUST 8.

F. CONCRETE EVIDENCE OF FALSE ACCUSATIONS BY THIRD COUNTRY FIRMS IS VERY DIFFICULT TO OBTAIN; HOWEVER, THE GOI'S STRONG POLICY OF ADHERENCE TO THE BOYCOTT CREATES AN IDEAL OPPORTUNITY FOR FOREIGN COMPETITORS TO BRING PRESSURE ON GOVERNMENT OFFICIALS WHO MIGHT BE INCLINED TO PREFER AMERICAN FIRMS. IRAQI INFORMATION MEDIA CONTINUALLY PORTRAY THE U.S. AS A MAJOR IMPERIALIST POWER AND THE PRIMARY SUPPORTER OF THE ENEMY OF THE ARABS, ISRAEL. IN THIS MILIEU, IT IS EASY TO UNDERSTAND WHY OFFICIALS OR PRIVATE BUSINESSMEN MAY BE RELUCTANT TO REQUEST NECESSARY HIGH LEVEL AUTHORIZATION TO WAIVE BOYCOTT REQUIREMENTS IN ORDER TO IMPORT AMERICAN PRODUCTS, OR AWARD AN ENGINEERING OR DESIGN CONTRACT TO THE BEST QUALIFIED FIRM.

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TO SECSTATE WASHDC 6621

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AMEMBASSY ALGIERS

AMEMBASSY AMMAN

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AMEMBASSY DAMASCUS

AMEMBASSY DOHA

AMEMBASSY JIDDA

AMEMBASSY KHARTOUM

AMEMBASSY KUWAIT

AMEMBASSY MANAMA

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G. UNCERTAINTY ABOUT U.S. LAWS AND REGULATIONS

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BEGAN TO INHIBIT EXPORTS EVEN BEFON THE PASSAGE AND IMPLEMENTATION OF THE EAA AMENDMENTS. MANY AMERICAN FIRMS ADOPTED POLICIES OF NON-RESPONSE TO AND NON-COMPLIANCE WITH GOI BOYCOTT POLICIES WHILE THE EAA WAS STILL BEING DEBATED IN THE CONGRESS. THE IRAQI GOVERNMENT, IN TURN, BEGAN TO REACT TO REFUSALS OF U.S. FIRMS TO PROVIDE URGENTLY-NEEDED REPAIR PARTS FOR KEY INDUSTRIAL FACILITIES EVEN THOUGH THEY COULD LEGALLY HAVE DONE SO. - - 43 7)5, IRAQI OFFICIALS IN CHARGE OF MAJOR NEW INDUSTRIAL, PETROLEUM, TRANSPORT AND COMMUNICATIONS PROJECTS TOTALLING BILLIONS OF DOLLARS ASK WHY THEY SHOULD TAKE THE RISK OF TYING THEMSELVES TO AN UNRELIABLE AND, IN THE VIEW OF THE POLITICAL LEADERSHIP, UNFRIENDLY SOURCE OF SUPPLY.

H. OUR CONVERSATIONS WITH AMERICAN

BUSINESSMEN SUGGEST THAT THE FUNDAMENTAL BARRIERS TO TRADYWITH IRAQ IMPOSED BY THE EAA ARE THE TQRMARY CONCERN. WE ARE PRESENTLY UNABLE TO ATTRIBUTE ACTUAL TRADE LOSSES TO THE ANTI-BOYCOTT PROVISIONS OF THE 1976 TAX REFORM ACT.

I. IT IS DIFFICULT TO PROVIDE PRECISE DOLLAR ESTIMATES OF LOST BUSINESS. MANY POTENTIAL EXPORTERS ARE UNAWARE OF THE OPPORTUNITIES. OVER 90 PERCENT OF IRAQI TENDER DOCUMENTS CANNOT BE REPORTED BECAUSE OF COMMERCE CIRCULAR 21 (WHICH PREDATES THE EAA AMENDMENTS) PROHIBITING THEIR DISSEMINATION SINCE THEY CONTAIN BOYCOTT CLAUSES. IT IS IMPOSSIBLE TO SAY HOW MANY OF THESE TENDERS MIGHT HAVE RESULTED IN CONTRACTS FOR U.S. FIRMS. THE FOLLOWING ARE SOME RECENT CASES IN CONFIDENTIAL

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WHICH U.S. BUSINESS INTERESTS SUFFERED AS A RESULT OF EAA-IMPOSED RESTRICTIONS:

(1) IN EARLY JULY, UNION CARBIDE INVESTIGATED THE POSSIBILITY OF OPENING A BRANCH OFFICE FOR MARKET DEVELOPMENT. THE FIRM WAS PREPARED TO COMMIT 200,000 DOLLARS PER YEAR BUT DECIDED NOT TO DO SO AS A RESULT OF IRAQI INSISTENCE UPON THE PROVISION OF BOYCOTT STATEMENTS. UNION CARBIDE REPRESENTATIVES ESTIMATED THAT THE POTENTIAL MARKET FOR JUST ONE OF THEIR DIVISIONS, AGRICULTURAL PESTICIDES, IS 600-800 THOUSAND DOLLARS ANNUALLY.

(2) INABILITY TO PROVIDE NEGATIVE CERTIFICATES OR ORIGIN HAS GREATLY HAMPERED HEWLETT-PACKARD'S EFFORTS TO INCREASE ITS MARKET SHARE. H-P OPENED A BRANCH IN BAGHDAD IN EARLY 1976 TO SERVICE EQUIPMENT AND PROMOTE SALES. THEY HAD PROJECTED 1978 SALES OF 10 MILLION DOLLARS BUT NOW FIND THEY WILL BARELY REACH ONE MILLION.

(3) IN APRIL 1978, THE GOI AWARDED MAJOR CONTRACTS FOR DESIGN OF GAS-GATHERING PROJECTS IN THE NORTHERN AND SOUTHERN OIL FIELDS AND FOR A 7.5 MILLION TONS-PER-YEAR OIL REFINERY. TOTAL COST OF THESE THREE PROJECTS WILL BE IN THE RANGE OF 2.5 BILLION DOLLARS. PULLMAN-KELLOGG, WHO BUILT THE LARGE DAURA REFINERY AT BAGHDAD IN THE EARLY 1960'S, WAS IN FINAL CONTENTION FOR THE HALF-BILLION DOLLAR BAIJI REFINERY AND UNITED OIL PRODUCTS (UOP)-PROCON WAS FAVORED FOR DESIGN OF THE BILLION DOLLAR NORTHERN GAS PROJECT. THE REFINERY CONTRACT WENT TO AN ITALIAN

FIRM AND THE NORTHERN PROJECT TO THE JAPANESE, WHO
HAVE, IN TURN, SUB-CONTRACTED PORTIONS OF THEIR
DESIGN CONTRACTS TO PROCON AND C.E. LUMMUS-CREST

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DEMANDS FOR PROHIBITED BOYCOTT STATEMENTS COST THEM THE PRIME CONTRACT FOR DESIGN OF THE GAS PROJECT, AND IRAQI HESITATION ABOUT LONG-TERM REPAIR PARTS SUPPLY MAY HAVE COST PULLMAN-KELLOGG THE REFINERY DESIGN AWARD.

(4) GENERAL ELECTRIC AND GENERAL MOTORS HAVE BEEN THE ONLY TWO COMPANIES SHORT-LISTED FOR A TENDER FOR 47 DIESEL-ELECTRIC LOCOMOTIVES WITH POTENTIAL DIRECT EXPORT VALUE OF 35 TO 40 MILLION DOLLARS. AFTER TWO YEARS EFFORT, GE HAS JUST BEEN REQUESTED TO PROVIDE PROHIBITED BOYCOTT STATEMENTS, WHICH IT INTENDS TO REFUSE. WE SUSPECT THE IRAQIS ARE LIKELY TO DEMAND SIMILAR PROHIBITED STATEMENTS FROM GM.

(5) DIRECT EXPORTS TO IRAQ PEAKED IN 1976 WITH A 10 PERCENT MARKET SHARE (VALUE 382 MILLION). INDIRECT EXPORTS (EST. 150 MILLION) VIA THIRD COUNTRIES PROBABLY RAISED OUR SHARE TO 13.7 PERCENT. IN 1977, DIRECT EXPORTS FELL TO A 5.4 PERCENT (210 MILLION) AND COMBINED DIRECT/INDIRECT EXPORTS TO 9.2 PERCENT (EST. INDIRECT EXPORTS 150 MILLION). ON THIS BASIS, WITH INCREASED RESTRICTIONS ON INDIRECT EXPORTS, ANNUAL LOSSES TO U.S. FIRMS ARE PROBABLY NOT LESS THAN 120 TO 150 MILLION DOLLARS IN DIRECT EXPORTS AND 70 MILLION OR MORE IN INDIRECT EXPORTS, A TOTAL OF 220 MILLION DOLLARS PER YEAR. THESE FIGURES, HOWEVER UNDERSTATE LOSSES SINCE U.S. DESIGN AND ENGINEERING FIRMS ARE LOSING BASIC DESIGN CONTRACTS FOR BILLION-DOLLAR PROJECTS THAT WOULD HAVE GENERATED GREATLY INCREASED U.S. EQUIPMENT EXPORTS.

3. CONCLUSION. THERE CAN BE NO QUESTION ABOUT THE SIZE AND IMPORTANCE OF THE MARKET. IRAQ IS
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CURRENTLY THE THIRD LARGEST OPEC OIL PRODUCER AND, AS A RESULT OF RECENT DISCOVERIES, MAY HAVE THE SECOND LARGEST OIL RESERVES IN THE WORLD. UNLIKE A NUMBER OF OTHER OIL-RICH COUNTRIES, IRAQ HAS SUFFICIENT NATURAL RESOURCES AND A LARGE ENOUGH POPULATION TO JUSTIFY COMPREHENSIVE DEVELOPMENT PLANS FOR INDUSTRY, INFRASTRUCTURE AND AGRICULTURE. WHILE IT IS UNLIKELY THAT U.S. SUPPLIERS WILL BE COMPLETELY CUT OFF FROM THIS ATTRACTIVE MARKET, WE BELIEVE THEIR SHARE WILL CONTINUE TO DECLINE IN THE FACE OF GOI INFLEXIBILITY ON BOYCOTT MATTERS. NEVERTHELESS, WE WILL CONTINUE LOW-KEY EFFORTS TO SEEK ACCOMMODATION.

WE ALSO URGE U.S. FIRMS TO PURSUE TRADE OPPORTUNITIES AND TO SEEK SOLUTIONS TO BOYCOTT ISSUES ON A CASE BY CASE BASIS EVEN THOUGH RESULTS THUS FAR ARE MIXED WE WOULD APPRECIATE BEING KEPT INFORMED OF EXAMPLES OF ACCOMMODATIONS MADE BY OTHER ARAB COUNTRIES TO EAA REGULATIONS AND PROPOSE TO BRING THEM TO THE GOI'S ATTENTION UNLESS OTHER POSTS FEEL THIS WOULD BE COUNTER-PRODUCTIVE.

4. ALL OF THE CONTENTS OF THIS CABLE MAY BE RELEASED WITH THE EXCEPTION OF THE SUMMARY, THAT PORTION OF 2A(2) CONCERNING MOBILE OIL, AND PARAGRAPH I, SUB-PARAS (1)-(4). IF ESSENTIAL, THE CONTENTS OF THESE PARAGRAPHS (EXCEPT THE SUMMARY) COULD BE RELEASED IF NAMES OF FIRMS AND PRODUCTS THAT WOULD SPECIFICALLY IDENTIFY THEM WERE DELETED. POST REGRETS THE NECESSITY OF THESE RESTRICTIONS, BUT WE HAVE LEARNED THAT U.S. FIRMS OPERATING HERE ARE SUBJECT TO DOMESTIC PRESSURES THAT MAKE THEM RELUCTANT TO SPEAK OPENLY WITH US IF THEY CANNOT BE REASONABLY ASSURED THAT THEIR CONFIDENCE WILL BE RESPECTED.
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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 jan 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
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Copy: SINGLE
Draft Date: 17 aug 1978
Decaption Date: 01 jan 1960
Decaption Note:
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Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 20 Mar 2014
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
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Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: GS
Errors: N/A
Expiration:
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Litigation History:
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Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
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Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: 78 BAGHDAD A-29, 78 BAGHDAD 933, 78 BAGHDAD 960, 78 BAGHDAD 1130
Retention: 0
Review Action: RELEASED, APPROVED
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Review Event:
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Review Release Date: n/a
Review Release Event: n/a
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Secure: OPEN
Status: NATIVE
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TAGS: ETRD, XF, IZ, US
To: STATE
Type: TE
vdkgvwkey: odhc://SAS/SAS.dbo.SAS_Docs/fd047061-c288-dd11-92da-001cc4696bcc
Review Markings:
Sheryl P. Walter
Declassified/Released
US Department of State
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20 Mar 2014
Markings: Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014